

# Oversight Committee Minutes

## Meeting 23: 28-29 June 2021

### Teleconference meeting

#### Present:

OC members: Martin Boon, Martin de la Harpe, Richard Kwarteng, Marike de Pena, Sugumar Raman, Iresha Sanjeewanie, Ludwig Tanchot, John Young (Chair)

Fairtrade International S&P: Alina Amador, Eleonora Gutwein, Blanca Loaiza, Gudrun Schloepker, Sebastian Wichterich

FLOCERT: Theresa Glammert-Kuhr

Contributing observer for Item 3: Patricia Magana-Spiegel (Fairtrade International)

Non-contributing observer for Item 9: Gustavo López (Standards Committee); Stan Cutzach, Anita Sheth (Fairtrade International)

#### Disclaimer:

The Fairtrade International (FI) Oversight Committee (OC) aims to reach consensus, but decisions may not always reflect the opinions of all members.

#### Item 1 – Opening

The chair opened the meeting and stated that the quorum was met.

Agenda: The agenda was agreed upon unanimously.

#### Conflict of interest:

A conflict of interest was identified for Item 3. Respective member will abstain from voting on this agenda item.

#### Ground Rules:

The chair reminded the OC about the ground rules for the meeting:

- All confidential information shared within the committee is kept confidential and should not be circulated or disclosed outside the committee. This does not apply to the public minutes.
- All decisions will be based on consensus whenever possible.

#### A&O News:

- The Assurance Manager (AM) informed the OC that the new position of Assurance Coordinator had been filled since the beginning of May 2021.

**Review of actions items:**

- The follow-up on the Exceptions Report 2019/2020 is on the agenda for this meeting (Item 6).
- The extension and modification of FLOCERT's remote audit approach during the COVID-19 pandemic is on the agenda for this meeting (Item 7).
- FLOCERT's allegation and complaints procedure and the summary of cases is on the agenda for this meeting (Item 9)
- The finalization, publication and distribution of the revised Exceptions Policy 2.0 is completed. Topic on the agenda for this meeting (Item 10).
- The development of a framework for pilot projects is ongoing. Inputs from different Fairtrade stakeholder have been collected and a tender for a consultant will be launched.
- The partial review of the Requirements for Assurance Providers (RAPs) that will enable the implementation of the Smart Assurance Model is ongoing and currently in the research phase. Consultations will take place in August and a proposal will be presented to the OC for decision in September.

**Item 2 – Updates**

ISEAL evaluation

The independent evaluation of FI against the ISEAL Assurance code is scheduled for August 2021. The timeline for the evaluation was shared, the OC will be informed about the progress and the result of the assessment.

Migrant workers in the Dominican Republic

The Director S&P informed the OC about the work in the Dominican Republic. Interpretation notes are issued and the compliance criteria revised to ensure there is no discrimination of workers in informal working circumstances. The provision of equal benefits for migrant/non-migrant and informal/formal workers continues to be a central topic for FI.

Label Integrity (UTPs) working group

After the workshops held with CLAC in December 2020, the need for a permanent working group emerged. The Terms of Reference for this task force have been developed and the kick off meeting is scheduled for July 2021. Based on the input from the workshops, roles, responsibilities and timelines will be assigned. The AM will inform the OC about the task force arrangements during the next OC meeting in September.

New entry requirements for coffee and cocoa

The AM informed the OC that the FI Board decided to maintain the current entry requirements for cocoa producers and traders until superseded by the new Cocoa Standard or until July 2022, whichever is earlier. The rules for coffee producers and traders will be superseded by the new Coffee Standard, which will be published in July 2021.

Grievance mechanism

A new grievance mechanism was developed jointly by FI and FLOCERT. The initial proposal was approved by the FI Board in March. A working group is developing an implementation plan for this new service.

FLOCERT strategy

FLOCERT's new strategy was presented to the OC. The presentation addressed the internal and external consultations that were conducted during the drafting phase, the strategy's core principles, the components of the new Smart Assurance Model and the envisioned impact of the new strategy over the

course of the next five years. The new strategy will be presented more extensively during the OC meeting in September.

### **Item 3 - Young Plant Pilot**

Fairtrade Germany presented a pilot project to the OC for approval, for young plants as a sub-product category. With the proposed pilot model with reduced costs in the North and an increased impact in the South, Fairtrade Germany plans to test whether this new model has the potential to unlock more Fairtrade plant sales and thereby increase impact for farmers. In the proposed pilot, the European growers would be excluded from the scope of certification in the young plant supply chains and a verification model would be developed to ensure documentary traceability of the product. FT Germany presented the main characteristics of the pilot, an assessment of the risks involved, their mitigations, documentary traceability and the mark use and claims to OC.

#### **Discussion**

The OC expressed concerns about the safeguards in place for the exclusion of European growers from the scope of certification and highlighted the importance of a strong verification procedure for this part of the supply chain. The AM mentioned that during the assessment of the pilot project, the verification of documentary traceability by FLOCERT and the partnering licensee's own control mechanisms of their suppliers was found adequate to ensure traceability and mitigate risks related to compliance with environmental criteria. OC members wanted to know more about the impact of the pilot on the already existing market for Fairtrade young plant materials and the relationship with other licensees in the market. FT Germany explained that the licensee will not engage in any sales outside of Germany, that a communication about the pilot will be made available to all NFOs for their young plant licensees and that the limited and fixed number of European growers participating in the pilot will only be allowed to supply their Fairtrade plants to the one confirmed partnering licensee. If the pilot is successful, the intention is to incorporate it into the Fairtrade Scheme and offer it to all commercial partners. Regarding the pest management of European growers, FT Germany has analysed the contractual requirements the partnering licensee has in place for its suppliers and considers them adequate. The OC highlighted that the partnering licensee should have such contractual arrangements also in place for physical traceability.

#### **Decision**

*One member abstained from voting due to a declared conflict of interest.*

The Young Plant Pilot was endorsed unanimously.

The main elements on the final contract agreement with the partnering licensee, especially on pest management and verification of documentary traceability on European grower level will be reported to the OC.

#### **Next Steps:**

- AM and FT Germany to report to OC on the progress of the pilot, including the requirements on pest management control and documentary traceability verification for the European grower level in the final contract agreement.
- AM and FT Germany to share comparison between Fairtrade Hazardous Material List and MPS certification pesticide list with OC.
- AM and FI SPA unit to look into the creation of pilot procedure guidelines in Q3 and Q4 2021.

#### **Item 4 – Training on ISO 17065**

The OC received a refresher training on the ISO/IEC 17065 standard, on its relevance to the oversight work, the structure of the standard and key requirements as well as on the scope of FLOCERT's Management System and its ISO/IEC 17065 accreditation.

#### **Next Steps:**

- AM to share FLOCERT's DAkkS' audit report with the OC.

#### **Item 5 – FLOCERT Requirements for Assurance Providers - on-site audit**

The AM presented FLOCERT's audit result against the RAPs v2.0, which was conducted by an independent evaluator in May and June 2021. The audit's aim was to evaluate FLOCERT's performance in implementing their certification system in accordance with FI's RAPs v2.0. The audit included a witness trader audit. A number of non-conformities against the RAPs were identified. For the witness audit, these were concerned with the locations and entities included in the scope of certification, the number of interviews conducted, the verification of invoices, the audit duration and audit team composition and the closing of non-conformities from previous audits. Other non-conformities were identified related to the content of the certificate, follow up non-conformities until the implementation of corrective actions and for internal document review cycles and procedures for translations. Further non-conformities were identified for the recording of auditor's qualification and the documentation of outsourcing of audit services. The AM pointed out that this was the first time an audit was conducted against the full RAPs v2.0 and revealed several insights to improve the clarity of the RAPs.

#### **Next Steps:**

- AM and FLOCERT to report to the OC on corrective actions for the non-conformities identified.

#### **Item 6 – Exceptions follow up**

Following up on questions from the last OC meeting, the AM presented information on Category A and B exceptions granted by FLOCERT in 2020. This included information on the exceptional use of Fairtrade Premium due to the COVID pandemic, overtime exceptions due to peak production periods, product compensation exceptions, a maximum land size exception for wine grape cultivation in SPOs and retro-certification exceptions.

#### **Item 7 – Extension of the certification during COVID**

FLOCERT presented the updated, strengthened version of the remote audit procedure during the COVID-19 pandemic. The remote audit approach was developed in April 2020. Due to the persistence of the pandemic, the need for an improved remote audit approach (2.0) was developed and has been implemented since April 2021. A higher degree of flexibility for audit teams to decide on short-notice, whether an audit can be conducted onsite or must be conducted remotely has been maintained. Major challenges of remote auditing include the triangulation of data on producer level and the verification of physical traceability on trader level. To address this, member and worker interviews, as well as remote site tours have been added as new elements to the process. FLOCERT pointed out, that negative impacts for the certification against Fairtrade Standards which have been out of scope for the remote audit approach (Textile, AMSO and Climate) has been limited, because few audits have been due in 2020 and some could or will likely be conducted onsite in 2021. Remote audits for certification against these standards continue to be considered unfeasible.

FLOCERT also presented the number of audits conducted in 2020. Actual trader audits conducted exceeded the planned numbers, while there were slightly less producer audits than had been scheduled initially. Also figures on the ratio between remote and onsite audits for different geographic regions were presented. For 2021 the number of audits currently planned is on track, with many of them still planned to be conducted remotely.

### **Discussion**

The OC asked FLOCERT for the absolute number of audits planned for 2021, which will be provided in the aftermath of the meeting. FLOCERT pointed out that the estimates for the shares of onsite and remote audits are to be handled carefully, because the dynamic nature of the pandemic still requires a high degree of flexibility. It was reiterated that the default position of FLOCERT is to conduct onsite audits, wherever possible. For the future, it was suggested by the OC to have a general standing rule for the outbreak of pandemics and health emergencies in certain countries. The AM encouraged FLOCERT to use distinct wording for remote audit approaches adopted as a temporary measure in times of restriction of movement, e.g. due to the COVID pandemic, and for the regular remote audit approaches implemented in the context of the Smart Assurance model, in order to ensure that the difference between the two is clear for all.

### **Decision**

The extension of the remote approach until the WHO withdraws the pandemic status of COVID and national regulations allow travel and transport of auditors in countries/regions where producers/traders are located was approved unanimously.

### **Next Steps:**

- FLOCERT to provide to the OC the absolute numbers of audits estimated to take place in 2021
- FLOCERT to ensure that remote audit approaches adopted for different reasons can be distinguished clearly by all stakeholders.

### **Item 8 – Oversight Scheme Documents**

The ISEAL Assurance Code requires the scheme owner, to conduct regular reviews of its assurance system to ensure it remains adequate, effective and able to maintain integrity.

The Oversight Procedure (OP) had been partially reviewed for the purpose of adding the second instance complaints procedure. Also, the Public System Report was updated, a paragraph related to licensing the certification mark was added and other minor amendments were made, related to the Oversight Mechanism.

#### **1. Oversight Procedure:**

The AM presented the new version of the OP, which is a normative document that sets out all the requirements for the operation of the FI Oversight System. In the OP version 2.1 chapter on allegation and complaints was amended as it referred to the 'Second instance Complaints procedure', which had not been developed. The AM found, that with a role of the Global Director Ethics and Compliance in place at FI and the launching of the Fairtrade Code, the development of a separate complaints procedure would no longer add value, and the process on handling second instance complaints or other complaints related to certification, licensing or the oversight mechanism, can be captured in the OP itself. Additional changes that were proposed by the AM was to remove of a clause that required AP and LB assessments to always include onsite evaluation and to keep a list of approved assessors and evaluators.

### **Discussion**

It was suggested that the new Global Director Ethics and Compliance should be invited to the OC, e.g. to give a presentation on the Fairtrade Code. While looking more closely at Section 6 on complaints procedure in the revised document, the OC made some comments for improvements to the AM. The OC also highlighted that the usage of the term *appeal* in the Definition Section of the document created some confusion, because the term is generally not being used in the context of AP and LB assessments. The OC stated that overall it agreed with intention of the proposed changes and asked the AM to do some alignments to the final wording.

### **Decision 1**

Oversight Procedure version 2.1 was approved unanimously and the final wording of the document was delegated to the AM.

### **2. Public System Report:**

The Public System Report describes the scope and content of FI's Oversight mechanism, and its Assurance and Licensing Programme. It has been developed as part of Fairtrade's compliance with the ISEAL Assurance Code and it is published on FI's and ISEAL's website. The Public System Report had to be updated with information on the certification mark and licensing, also the language and the structure was slightly changed, to reflect the requirements in ISEAL's Assurance code.

### **Decision 2**

Public System Report version 2.0 was approved unanimously.

### **Next Steps:**

- AM to conduct final editing of the Oversight Procedure v2.1 and the Public system report v2.0 and share it with OC members.
- AM to publish the Oversight Procedure v2.1 and the Public System report v2.0.
- AM to send the latest version of the Public system report to ISEAL.
- AM to invite new Global Director Ethics and Compliance to the upcoming OC.

### **Item 9 – Allegation and complaints**

FLOCERT Credibility Assurance team presented their allegations, appeals/reviews, and complaints procedure, and a summary of cases received in 2020. FLOCERT explained the definition of allegations, appeals/reviews, and complaints in the context of certification and how people can make use of each procedure. It was pointed out that the change in the number of customers since 2017 (increased by more than one third) has to be taken into account when assessing complaints and allegations. Allegations have also increased significantly, which is seen as a positive indication for the trust in FLOCERT's system and provides a broader basis for monitoring. It is also perceived to be a result of making the allegation procedure more accessible, e.g. via a WhatsApp channel. Closer analysis for the allegation received was provided, e.g. distribution between traders and producers, distribution across geographic regions, products topics and submitting parties. The number of appeals/reviews against FLOCERT certification decisions was not very high, and were processed on average within 20 days. Complaints received were often based on dissatisfaction of the fee system and the performance of auditors. A summary of the cases in an aggregated form is published by FLOCERT on their website every year.

### **Discussion**

The OC raised concerns about the maximum period of time FLOCERT has to process allegations (six month), especially in the case of alleged human rights violations. FLOCERT responded that prior approaches of classifying allegations into low and high risk categories with different processing times had not been satisfactory for submitting parties, that actual processing times are often much shorter and that only a small share of allegations are raised on human rights issues. It was pointed out that FLOCERT's

allegation procedure is focused on issues that fall within the scope of certification and auditing, and that safeguarding and remediation for other issues would need to be addressed by other means/parties within the Fairtrade system. The OC and AM reiterated that some issues covered by Fairtrade Standards require fast action to trigger protection mechanisms and that FLOCERT is requested to inform other parts of the Fairtrade system if it receives evidence about potential violations. FLOCERT and the FI Director Global Ethics and Compliance are currently engaged in conversations on how to further improve and operationalise this process.

The OC asked about the rationale of the 14-day timeline that customers have to submit an appeal after a certification decision of FLOCERT has been communicated to them, since this was considered a short period for the SPO and their democratic internal decision making. FLOCERT replied that they have recently increased the timeline from seven to 14 days and that they also try to keep the accessibility high by making the process very transparent.

It was discussed whether auditors and regional certification analysts could face impartiality issues, when they are investigating an allegation against a customer previously audited by them. FLOCERT took the position that risks of this are limited, because of their procedural and normative approach to auditing.

The OC also raised attention for the need to monitor and improve the contractual safeguards in place to prevent that too many times complainants resort to legal action after the case have been closed.

FLOCERT pointed out that some investigations of complaints which require onsite audits have been delayed, because the COVID pandemic has made onsite audits impossible. The OC asked the AM to analyse how the RAPs could be amended to address this issue in the future.

**Next Steps:**

- FLOCERT to share appeal and review application template with OC and non-contributing observers.

**Item 10- Revised Exceptions Policy Information**

During its meeting in March 2021 the OC had approved the FI Exceptions Policy version 2.0 with the condition that some amendments to specific sections of the document still had to be made. The implementation of these amendments in the final text were presented. These concerned the addition of criteria for the granting of exceptions for materials from the FI Hazardous Materials List, for the granting of Collective Exceptions for several operators in a certain geographic area or product category, the exclusion of tariff barriers from the new exceptions reason and a change of wording in the definition of Unavailable Ingredient. The OC was also informed that requirements of the new policy have been already mostly implemented in Fairtrade Connect and was given an overview over the final structure of the revised document. The revised policy has been published, a presentation was provided to the Fairtrade system and internal operational guidelines for its application are to be finalized in Q4 2021.

**Item 11- Chair and Vice Chair Election**

The OC members re-appointed John Young as Chair and re-elected Ludwig Tanchot as Vice Chair for a one-year term. The next chair and vice chair election is due in June 2022.

**Item 12 – AOB**

The OC pointed out that papers for OC and SC meetings should be sent sooner and within the timelines defined by the ToRs. The AM and the Director SPA acknowledged this and reiterated their determination to send the papers at least seven days prior to the meetings.

**Next meeting**

The next OC meeting was set for September 22<sup>nd</sup> and 23<sup>rd</sup>.

The meeting was formally closed.